

PATENT

Attorney Docket No.: 23861/3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Christian Woll *et al.* EXAMINER: Michael B. Priddy  
SERIAL NO.: 10/811,661 GROUP ART UNIT: 3733  
FILED: March 29, 2004 CONFIRMATION NO.: 2443  
FOR: *ORTHOPEDIC INTRAMEDULLARY FIXATION SYSTEM*

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on:

By:

*Tracey M. Simmons*  
Tracey M. Simmons

*April 26, 2007*  
Date

MAIL STOP AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121

Sir:

In the Restriction Requirement, dated April 4, 2007, Applicants were required to elect a single invention for prosecution on the merits from one of the following groups:

Group I: Group I is drawn to a bone segment positioning apparatus, classified in class 606, subclass 60 and currently embodied in Claims 1 through 23.

Group II: Group II is drawn to a method for aligning bone segments, classified in class 606, subclass 105 and currently embodied in Claims 24 through 32.

Applicants provisionally elect, with traverse, Group I.

According to Section 803 of the M.P.E.P., restriction may properly be required between patentably distinct inventions if (1) the inventions are independent or distinct as claimed; and (2) there is a serious burden on the Examiner if restriction is not required. Group I and Group II require the same limitations and do not require a separate field of search.

Specifically, Applicants respectfully submit that there will not be a serious burden on the Examiner if restriction between the claims is not required because regardless of the claims prosecuted, the field of search for each of the groups and each identified species will substantially overlap, if not be identical to the other. A separate field of search is shown to exist only when one of the distinct subjects can be searched in places where no pertinent art to the other subject exists. In this case, however, there is no indication that a separate field of search is required for the present application. Group II, which is drawn to a method of aligning bone segments requires the same limitations as the apparatus of Group I. Therefore, the search would be largely coextensive. Thus, Applicants respectfully contend that there will not be a serious burden on the Office if restriction is not required. Applicants requests that this restriction requirement be withdrawn.

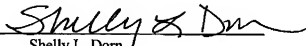
Applicants expressly reserve the right to file one or more divisional applications directed to the non-elected claims of this application.

### CONCLUSION

The claims remaining within the application are believed to patentably distinguish over the prior art and to be in condition for allowance. Early and favorable consideration of this application is respectfully requested.


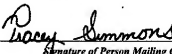
Respectfully submitted,

Date: April 26, 2007



Shelly L. Dorn  
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<b>AMENDMENT TRANSMITTAL LETTER (Small Entity)</b>					Docket No. 23861/3	
Applicant(s): Christian Woll et al.						
Application No. 10/811,661	Filing Date March 29, 2004	Examiner Michael B. Priddy	Customer No. 21710	Group Art Unit 3733	Confirmation No. 2443	
Invention: ORTHOPEDIC INTRAMEDULLARY FIXATION SYSTEM						
<b><u>COMMISSIONER FOR PATENTS:</u></b>						
Transmitted herewith is an amendment in the above-identified application.						
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27						
The fee has been calculated and is transmitted as shown below.						
<b>CLAIMS AS AMENDED</b>						
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE	
TOTAL CLAIMS	23 -	32 =	0	x \$25.00	\$0.00	
INDEP. CLAIMS	2 -	1 =	1	x \$0.00	\$0.00	
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00	
<b>TOTAL ADDITIONAL FEE FOR THIS AMENDMENT</b>					<b>\$0.00</b>	
<input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0369 <input type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input type="checkbox"/> Any patent application processing fees under 37 CFR 1.17. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.						
<b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b>						
 _____ Signature			Dated: April 26, 2007			
Shelly L. Dorn, Reg. No. 58,207 BROWN RUDNICK BERLACK ISRAELS LLP One Financial Center, Box IP Boston, MA 02111 tel. (617) 856-8238 fax (617) 856-8201 ip@brownrudnick.com			I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on April 26, 2007 _____ (Date)  _____ Signature of Person Mailing Correspondence Tracey M. Simmons Typed or Printed Name of Person Mailing Correspondence			
CC:						